

Commodity Credit Corporation, USDA

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(c) Federal agencies acquiring property, by foreclosure or otherwise, that contains BCAP contract acreage cannot be a party to the contract by succession. However, through an addendum to the contract, if the current operator of the property is one of the contract participants, the contract may remain in effect and, as permitted by CCC, such operator may continue to receive payments under such contract if CCC determines that such allowance is in the public interest and:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such Federal agency.

PART 1455—VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM

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AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 3839.

SOURCE: 75 FR 39140, July 8, 2010, unless otherwise noted.

§ 1455.1 Purpose and administration.

(a) The purpose of this part is to specify requirements and definitions for the Voluntary Public Access and Habitat Incentive Program (VPA-HIP).

(b) VPA-HIP provides, within funding limits, grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing under programs administered by State and tribal governments. VPA-HIP is not an entitlement program and no grant will be made unless the application is acceptable to the Commodity Credit Corporation (CCC). CCC may re-

ject a application for any reason deemed sufficient by CCC.

(c) The regulations in this part are administered under the general supervision and direction of the Executive Vice President, CCC, or a designee, or the Deputy Administrator, Farm Programs (Deputy Administrator), Farm Service Agency (FSA).

§ 1455.2 Definitions.

(a) The definitions in part 718 of this chapter apply to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions apply to this part:

Appropriate wildlife habitat means habitat that is suitable or proper, as determined by the applicable State or tribal government, to support fish and wildlife populations in the area.

Farm land means the land that meets definition of “farmland” in § 718.2 of this title.

Forest land means land at least 120 feet wide and 1 acre in size with at least 10 percent cover (or equivalent stocking) by live trees of any size, including land that formerly had such tree cover and that will be naturally or artificially regenerated. Forest land includes transition zones, such as areas between forest and nonforest lands that have at least 10 percent cover (or equivalent stocking) with live trees and forest areas adjacent to urban and built-up lands. Roadside, streamside, and shelterbelt strips of trees must have a crown width of at least 120 feet and continuous length of at least 363 feet to qualify as forest land. Unimproved roads and trails, streams, and clearings in forest areas are classified as forest if they are less than 120 feet wide or an acre in size. Tree-covered areas in agricultural production settings, such as fruit orchards, or tree-covered areas in urban settings, such as city parks, are not considered forest land.

Privately-held land means farm, ranch, or forest land that is owned or operated by an individual or entity that is not an entity of any government unit or Tribe.

Ranch land means land that meets the definition of “farmland.”

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State or State government means any State or local government, including State, city, town, or county government.

Tribal government means any Federally-recognized Indian tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601-1629h), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Wildlife-dependent recreation means a land use involving hunting, fishing, wildlife-observation, photography, environmental education and interpretation, or other activities as determined by CCC.

§ 1455.10 Eligible grant applicants.

(a) A State or Tribal government may apply for a VPA-HIP grant.

(b) Any applications received by an individual or entity that is not a State or tribal government will not be considered.

§ 1455.11 Application procedure.

(a) *Request for applications (RFA)*. CCC will issue periodic RFAs for VPA-HIP on www.grants.gov, subject to available funding. Unless otherwise specified in the applicable RFA, applicants must file an original and one hard copy of the required forms and an application.

(b) *Single application*. A State or tribal government must include all proposed activity under a single application per RFA review period. Multiple applications from an applicant during a single RFA period will not be considered. The applicant is the individual State or Tribe; any application from any unit of the State or tribal government must be coordinated for a single submission of one application from the State or Tribe.

(c) *Incomplete applications*. Incomplete applications will not be considered for funding. However, incomplete applications may be returned, and may be resubmitted, if time permits.

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(d) *Providing data*. Data furnished by grant applicants will be used to determine eligibility for the VPA-HIP benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

(e) *Required forms*. The following forms must be completed, signed, and submitted as part of the application; other forms may be required, as specified in the applicable RFA:

(1) Application for Federal Assistance;

(2) Budget Information—Non-Construction Programs; and

(3) Assurances—Non-Construction Programs.

(f) *Application*. Each application must contain the following elements; additional required elements may be specified in the applicable RFA:

(1) Title page;

(2) Table of contents;

(3) Executive summary, which includes;

(i) *Activities*. Provide a summary of the application that briefly describes activities proposed to be funded under the grant.

(ii) *Objectives, funding, performance, and other resources*. Include objectives and tasks to be accomplished, the amount of funding requested, how the work will be performed, whether organizational staff, consultants or contractors will be used, and whether other resources will be used;

(4) Eligibility certification that certifies that the applicant is a State or tribal government and the individual submitting the application is acting in a representative capacity on behalf of the State or tribal government;

(5) Application narrative that must include, but is not limited to, the following:

(i) *Project title*. The title of the proposed project must be brief (not to exceed 75 characters) yet describe the essentials of the project.

(ii) *Information sheet*. A separate one-page information sheet listing each of the evaluation criteria referenced in the RFA, followed by the page numbers of all relevant material and documentation contained in the application that address or support the criteria.

(iii) *Objectives of the project.* This section must include the following:

(A) A description of how the VPA-HIP funding will be used to encourage public access to private farm, ranch, and forest land for hunting, fishing, and other recreational purposes;

(B) A description of the methods that will be used to achieve the provisions of paragraph (f)(5)(iii)(A) of this section;

(C) A description of how and to what extent the proposed program will meet with widespread acceptance among landowners;

(D) A detailed description of how and to what extent the land enrolled will have appropriate wildlife habitat and how program funds may be used to improve those habitats;

(E) A detailed description of how and to what extent public hunting and other recreational access will be increased on land enrolled under a Conservation Reserve Enhancement Program as specified under §1410.50 of this chapter, or if Conservation Reserve Enhancement Program land is not available, specify that there is no impact;

(F) A detailed description of how any additional Federal, State, tribal government, or private resources will be used to carry out grant activities; and

(G) A detailed description of how the public will be made aware of the location of the land enrolled.

(iv) *Work plan.* Applications must discuss the specific tasks to be completed using grant and matching funds. The work plan should show how customers will be identified, key personnel to be involved with administration of the grant, and the evaluation methods to be used to determine the success of specific tasks and overall objectives of a VPA-HIP grant. The budget must present a breakdown of the estimated costs associated with VPA-HIP activities and allocate these costs to each of the tasks to be undertaken. Additional funds from Federal, State, tribal government, or private resources as well as grant funds and resources provided in kind must be accounted for in the budget.

(v) *Performance evaluation criteria.* Applications should discuss how the State or tribal government will evaluate whether the program for which the

grant is being sought will meet the stated goals for the State or tribal program, including but not limited to landowner and recreationist participation, outreach, and cost-effectiveness.

(vii) *Other similar efforts.* The applicant must describe its previous accomplishments and outcomes in public access activities, if any.

(viii) *Qualifications of personnel.* Applicants must describe the qualifications of personnel expected to perform key tasks, and whether these personnel are to be full- or part-time employees or contract personnel.

§ 1455.20 Criteria for grant selection.

(a) Incomplete or non-responsive applications will not be evaluated. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

(b) After all applications have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the RFA, a list of all applications in ranked order, together with funding level recommendations, will be submitted to the Deputy Administrator, FSA.

(c) Unless supplemented in a RFA, applications for grants for VPA-HIP will be evaluated using the criteria listed in this section. The distribution of points to be awarded per criterion will be identified in the RFA.

(1) *Benefits.* The application will be evaluated to determine whether and to what extent the project's anticipated outcomes promote improvement of public access for wildlife-dependent recreation and intended environmental benefits.

(2) *Project description and feasibility.* The application will be evaluated on the extent and quality to which the applicant demonstrates a reasonable approach to the project, sufficient resources to complete the project, and a capability to complete the project in a timely manner.

(3) *Widespread acceptance and maximizing participation of landowners.* The application will be evaluated based on the applicant's plan for encouraging the participation of owners and operators of privately-held farm, ranch, and forest land, and for engaging the public

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users. Additionally, the extent to which the applicant has identified and established relationships with the partners necessary to achieve the project's goals will be evaluated.

(4) *Appropriate wildlife habitat.* The application will be evaluated to determine whether the applicant demonstrates expertise in providing technical assistance with respect to establishing and maintaining appropriate wildlife habitat on public access land.

(5) *Strengthening wildlife habitat for lands under the Conservation Reserve Enhancement Program (CREP).* The application will be evaluated to determine whether the project proposes to provide incentives to increase public hunting and other recreational access on land enrolled under CREP as authorized by § 1410.50.

(6) *Additional private, Federal, State, or tribal government resources.* The application will be evaluated to determine the extent to which the support letters provided by other organizations involved with the project demonstrate specific and quantified commitments to the project. Applications that demonstrate additional resources will receive more points, all else being equal, than those that do not.

(7) *Making available the location of enrolled land.* The application will be evaluated to determine how the project proposes to make available to the public the location of the land enrolled.

(8) *Performance evaluation criteria.* The application will be evaluated to determine whether the applicant has included outcome-based performance measures.

(9) *Administrative capabilities.* The application will be evaluated to determine whether the grant applicant has a track record of administering the project or, in the absence of a track record, the capacity to administer the project. Applicants that have demonstrated capable financial systems and audit controls, personnel and program administration performance measures, and clear rules of governance will receive more points than those not evidencing this capacity.

(10) *Delivery.* The application will be evaluated to determine whether the applicant has a track record in implementing public access or similar pro-

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grams or, in the absence of an actual track record, the capacity to implement a public access program. The applicant's potential for delivering an effective public access program and the expected effects of that program will also be assessed.

(11) *Work plan and budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the components of the application. Clear, logical, realistic, and efficient plans will result in a higher score. Budgets will be reviewed for completeness and whether and to what extent additional resources were committed by Federal, State, or tribal government, and private resources.

(12) *Qualifications of those performing the tasks.* The application will be reviewed to determine if key personnel have appropriate knowledge, skills, and abilities with respect to wildlife-dependent recreation including hunting or fishing on privately-held farm, ranch, and forest land, funds control, grants management, performance monitoring and evaluation, or other activities relevant to the success of the proposed public access program.

§ 1455.21 Additional responsibilities of grantee.

(a) Before receiving grant funding, the grantee will be required to sign an agreement similar in form and substance to the form of agreement published within or as an appendix to the RFA. The agreement will require the grantee to commit to do all of the following:

(1) Take all practicable steps to develop continuing sources of financial support from other Federal, State, tribal government, or private resources;

(2) Make arrangements for the monitoring and evaluation of the activities related to implementation of the public access program of the owners or operators that enroll farm, ranch, and forest land; and

(3) Provide an accounting for the money received by the grantee under this subpart.

(b) Grantees will be required to monitor funds or services as specified in paragraph (c) of this section, and must

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agree to that monitoring before grant funds are awarded.

(c) The grantee must certify that the grant funds and services will not be used for ineligible purposes. Specifically, grant funds and services may not be used to:

(1) Duplicate or replace current services; however, grant funds may be used to expand the level of effort or service beyond what is currently being provided;

(2) Pay costs of preparing the application for funding under VPA-HIP;

(3) Pay costs of the project incurred prior to the date of grant approval;

(4) Fund political activities;

(5) Pay any judgment or debt owed to the United States;

(6) Pay for the design, repair, rehabilitation, acquisition, or construction of a building or facility (including a processing facility);

(7) Purchase, rent or pay for the installation of fixed equipment, other than property identification signs;

(8) Pay for the repair of privately owned vehicles; or

(9) Pay for research and development not directly related to quantifying the performance of VPA-HIP lands enrolled with funding from VPA-HIP.

(d) Grant agreements under this part will be for a term of up to 3 years.

(e) Grantees that are States will have the grant amount reduced by 25 percent if opening dates for migratory bird hunting in the State are not consistent for residents and non-residents. This paragraph does not apply to grantees that are Tribal governments.

(f) Failure of the grantee to execute a grant agreement in a timely fashion, as determined by the CCC, will be construed to be a withdrawal from VPA-HIP.

§ 1455.30 Reporting requirements.

(a) Grantees must provide the following to FSA:

(1) A "Financial Status Report" listing expenditures according to agreed upon budget categories, on a periodic basis as specified in the grant document.

(2) Annual performance reports that compare accomplishments to the objectives stated in the application, and that also:

(i) Identify all tasks completed to date and provide documentation supporting the reported results;

(ii) If the original schedule provided in the work plan is not being met, the report must discuss the problems or delays that may affect completion of the project;

(iii) List objectives for the next reporting period; and

(iv) Discuss compliance with any special conditions on the use of award funds. Reports are due as provided in paragraph (a)(1) of this section.

(3) Final project performance reports, inclusive of supporting documentation. The final performance report is due within 90 days of the completion of the project.

(b) All reports submitted to the Agency will be held in confidence to the extent permitted by law.

§ 1455.31 Miscellaneous.

(a) *Inspection.* Grantees must permit periodic inspection of the program operations by a CCC representative, as determined by CCC.

(b) *Performance evaluation.* CCC will incorporate performance criteria in grant award documentation and will regularly evaluate the progress and performance of grant awardees.

(c) *Suspend, terminate, or require refund.* CCC may elect to suspend or terminate a grant in all or part, or funding of a particular workplan activity, and require refund of part or all of the grant, with interest, where CCC has determined:

(1) That the grantee or subrecipient of grant funds has demonstrated insufficient progress in complying with the terms of the grant agreement;

(2) The opening dates for migratory bird hunting in a State have been changed so as to be not consistent for residents and non-residents during the term of the grant;

(3) There is reasonable evidence that shows joint funding has not been or will not be forthcoming on a timely basis; or

(4) Such other cause as CCC identifies in writing to the grantee based on reasonable evidence (including but not limited to the use of Federal grant funds for ineligible purposes).

(d) *Advance or reimbursement.* Grantees must use the request for advance or reimbursement form, which will be provided by CCC, to request advances or reimbursements;

(e) *Appeals.* Appeals will be handled according to 7 CFR parts 11 and 780.

(f) *Environmental review.* All grants made under this subpart are subject to the requirements of 7 CFR part 799.

Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(g) *Civil rights.* CCC prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. VPA–HIP will also be administered in accordance with all other applicable civil rights law.

(h) *Other USDA regulations.* The grant program under this part is subject to the provisions of the following regulations, as applicable:

(1) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(3) 7 CFR part 3017, Governmentwide Debarment and Suspension (non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(4) 7 CFR part 3018, New Restrictions on Lobbying;

(5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations; and

(6) 7 CFR part 3052, Audits of States, Local Governments and Non-profit Organizations.

(i) *Audit.* Grantees must comply with the audit requirements of 7 CFR part 3052. The audit requirements apply to

the years in which grant funds are received and years in which work is accomplished using grant funds.

(j) *Change in scope or objectives.* The Grantee must obtain prior approval from FSA for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, or recovery of grant funds.

(k) *Exceptions.* CCC may, in individual cases, make an exception to any requirement or provision of this part, provided that any such exception is not inconsistent with any applicable law or opinion of the Comptroller General, and provided further, that CCC determines that the application of the requirement or provision would adversely affect the Federal Government's interest.

(l) *Enforcement and refunds; liens and schemes or devices.* Grantees must comply with all conditions of the grant and any monies not spent or improperly spent must be returned immediately with interest to run at the normal rate for CCC obligations. Interest charges will be computed from the date of the CCC disbursement. Grantees must insure that parties that receive funds from the grantee comply with the grantee's application and return funds made available by the grantee where there is no such compliance. Any scheme or device to avoid any limits of this part will be considered to be a program violation with respect to any grant to which that scheme or device is related. Grant funds will be made available to the States or Tribes that are grantees under this part without regard to the claims of others, unless CCC determines otherwise.

PART 1463—2005–2014 TOBACCO TRANSITION PROGRAM

Subpart A—Tobacco Transition Assessments

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